cited by the Vermont Court, in this connection, it does not appear who was to receive the proceeds and in two of them there were additional facts negativing fraud. Possibly, it is inferable from the opinions in the above mentioned decisions of the United States Supreme Court, that it would hold on general principles that the transaction in the principal case was fraudulent. The states are about evenly divided upon this question, holding on one side that such mortgages are conclusively fraudulent and on the other that the question is one of fact and good faith. The latter doctrine seems to be the sound one and among the courts holding to it are the United States Supreme Court and the Vermont Supreme Court. For classification of states and discussion of the question, see Note to *Ephraim* v. *Kelleher* (Wash.) 18. L. R. A. 604; note to *Peabody* v. *Landon* (Vt.) 15 Am. St. Rep. 912; JONES ON CHATTEL MORTGAGES (4th ed.) §§ 415, 379-425. The decision in the principal case seems to be sound on principle. It might be urged, however, that inasmuch as the sales were wholly for the mortgagor's benefit, and the mortgage was wholly inoperative as to after-acquired goods, unless possession was taken in time, as against creditors, the mortgaged stock would be continually decreasing and the mortgagee would derive no practical benefit from the transaction; this, it might be insisted, was primarily a fraudulent arrangement to enable the mortgagor to continue as theretofore in full control of the property and business and to hold the agreement as a shield against the attacks of unsecured creditors. *Pabst Brewing Co.* v. *Butchart*, 67 Minn. 191, 64 Am. St. Rep. 408; *Bergman* v. *Jones*, 10 N. Dak. 520, 88 N. W. 284, 88 Am. St. Rep. 739 and note thereto; and *Brinker* v. *Ashenfelter, et al* (1901),—Neb.—95 N. W. 1124 in which last case an agreement identical with that in the principal case was held fraudulent as a matter of law. See the following recent decisions, *Atchison Saddlery Co.* v. *Gray* —Kan.—65 Pac. 987; *Williams* v. *Mitchell*—Kan.—58 Pac. 1025; *Roden, et al*, v. *Norton, et al*,—Ala—29 South. 637; *Burford, et al* v. *First National Bank, of Lafayette, et al*,—Ind—66 N. E. 78; *State, ex rel Kennan*, v. *Fidelity Dep. Co.*—Mo.—67 S. W 958.

CONSTITUTIONAL LAW—DUE PROCESS AT LAW—FORFEITURE OF LANDS FOR FAILURE TO PAY TAXES.—An act providing that on failure to pay back taxes on swamp lands at a certain date they should be forfeited and vested in the state board of education and that no "suit, action, proceeding, order, decree, or judicial determination shall be necessary to such forfeiture," *Held*, unconstitutional, as depriving an owner of property without sanction by the "law of the land." *Parish* v. *East Coast Cedar Co.* (1903),—N. C.—, 45 S. E. Rep. 768.

As to whether a state can declare a forfeiture of lands of an owner based on default in payment of taxes without judicial finding, is unsettled and there is a conflict upon the question. The courts of Mississippi and of Minnesota have each denied such a power. *Griffin* v. *Mixon*, 38 Miss. 424; *Hill* v. *Lund*, 13 Minn. 451. On the other hand, the courts of Virginia and West Virginia have affirmed it. *Usher* v. *Bride*, 15 Grat. 190; *State* v. *Sponaugle*, 45 W. Va. 415. But there is no direct authority that non-payment of taxes at a certain time ipso facto will vest the land in the state or some other designated body. Whatever may be the expression occurring in certain decisions, this has been left in doubt by the Supreme Court of the United States. Such a right has been declared "impossible." COOLEY ON TAXATION (3rd ed.) 863.

CONSTITUTIONAL LAW—LOCAL OPTION LAW—USE OF LIQUORS IN RELIGIOUS WORSHIP—DISCRIMINATION.—The Bill of Rights, Art. 1 § 6, forbids any interference with the rights of conscience and matters of religion, or giving

any preference by law to any religious society or mode of worship. Rev. St. 1895, tit. 69, Art. 3384, et seq., provide for local option elections in counties and political sub-divisions thereof, and authorize the prohibition of the sale of intoxicating liquors except for medicinal and sacramental purposes. The Jewish mode of worship, while not requiring any sacraments, requires the use of wine on various occasions, such use having no symbolical meaning, wine being used as a beverage. *Held*, that the statute is not an unconstitutional discrimination against the Jews in their use of wine in their mode of worship. *Sweeny* v. *Webb* (1903),—Texas—76 S. W. Rep. 766.

The novel contention was urged that the provisions of the statute discriminated between lawful religions. It is not questioned but the state in the use of its police powers can absolutely prohibit the sale or manufacture of intoxicating liquors within its territory. *Bowman* v. *State* (Tex. Crim. App.) 40 S. W. Rep. 796, *Mugler* v. *Kansas*, 123 U. S. 623, 8 Sup. Ct. 273, 31 L. Ed. 205.

CONTRACT FOR THE BENEFIT OF THIRD PERSONS—ENFORCEMENT BY BENEFICIARY—ASSIGNMENT.—A son promised his father, on receiving property from the father, that on the latter's death he would pay a sum of money to his (the son's) sister. *Held*, that the promise created a chose in action in favor of the father, which, on being assigned to the daughter, could be enforced by her. *Ebel* v. *Piehl* (1903), —Mich.— 95 N. W. Rep. 1004.

This case would seem to evade the common law doctrine hitherto followed in Michigan that a stranger to the consideration cannot sue on a contract. *Pipp* v. *Reynolds*, 20 Mich 88; *Turner* v. *McCarty* 22 Mich. 265. The holdings and theories of the different states upon this subject are very fully set forth in an article by Professor Samuel Williston in 15 HAR. LAW. REV. 767.

CORPORATIONS—ORAL SUBSCRIPTION TO STOCK—STATUTE OF FRAUDS.—G, as receiver of an insolvent corporation, brings suit against R, and M, for unpaid assessments on stock. They had made an oral subscription for shares of stock, payments on which were to be as follows: 10 per cent, within 15 days after subscription, and the remainder payable at call, provided, that no assessment should exceed 10 per cent of par value and that no two assessments should be at shorter intervals than sixty days. The corporation entered the names of R, and M. upon its books as stockholders when the oral subscription was made, but the certificates of stock were not to be delivered until the payments were completed, more than a year from the date of the making of the subscription contract. *Held*, that the contract was not within that section of the Statute of Frauds, regarding contracts not to be performed within one year. *Reed and McCormick* v. *Gold* (1903),—Va.—45 S. E. Rep. 868.

It was contended that as the certificates were not to be delivered, and the payments were not to be completed, within a year from the making of the contract, it was one which came clearly within the statute. The court was of the opinion, however, that the corporation had performed its part of the contract, when it entered the names of the defendants on its books as stockholders, and that the title had thereupon passed. It was a sale upon credit, and stock could be sold upon credit as well as any other property. The fact that the certificates were not delivered, did not prevent the passing of the title. COOK ON CORPORATIONS (4th Ed.) Vol. I, Sec. 14, *Wheeler* v. *Millar* 90 N. Y. 353. The fact. as found by the court, that the contract was an executed one on the part of the corporation was sufficient to save it from the operation of the Statute, under the rule of the English cases, which is followed by this court, that a parol contract of sale, if executed on one side, is not within the statute, even though performance on the other side